

CITY OF MORGAN HILL
REGULAR AND SPECIAL REDEVELOPMENT AGENCY AND
SPECIAL CITY COUNCIL MEETING
MINUTES - APRIL 26, 2000

Chairperson/Mayor Kennedy called the meeting to order at 6:07 p.m.

ROLL CALL

Present: Agency/City Council Members Cook, Tate, and Chairperson/Mayor Kennedy
Late: Agency/City Council Member Chang (arrived at 6:13 p.m.) and Sellers (arrived at 6:35 p.m.)

CLOSED SESSION:

Chairman/Mayor Kennedy announced the following closed session item:

PUBLIC EMPLOYMENT

Legal Authority: Government Code Section 54957
Position: City Manager Recruitment

Chairman/Mayor Kennedy opened the closed session item to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Chairman/Mayor Kennedy adjourned the meeting to closed session at 6:09 p.m.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 7:08 p.m.

CLOSED SESSION ANNOUNCEMENT:

Chairman/Mayor Kennedy announced that no reportable action was taken on the above listed closed session item and that the closed session was continued to the end of the agenda.

CERTIFICATE OF APPRECIATION

Mayor Pro Tempore Tate, on behalf of Mayor Kennedy, presented James Johnson and John Murillo with a *Certificate of Appreciation* for serving the City of Morgan Hill as Library Commissioners.

PUBLIC COMMENT

City Manager Tewes announced two community forums to review the design of the Community and Cultural Center scheduled for Thursday, May 11 at 7:00 p.m. at City Hall and Saturday, May 13, 2000 at 10:00 a.m. at a location to be held downtown. He encouraged community input.

Redevelopment Agency

CONSENT CALENDAR:

Mayor Kennedy indicated that agenda item 6 should have been placed under the Redevelopment Agency consent calendar and not the City Council consent calendar. Therefore, it should be acted upon under the Redevelopment Agency consent calendar.

Agency Member Chang and Vice-chairman Sellers indicated that they are owners of property located adjacent to Consent Calendar Item 2c and that they would be stepping down from that item.

Agency Member Cook requested that Consent Calendar Item 1 be removed from the Consent Calendar.

Action: *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Commission unanimously (5-0) approved Consent Calendar Item 6 as follows:*

6. MARCH FINANCE AND INVESTMENT REPORT

Action: *Accepted and filed report.*

1. LEASE EXTENSION WITH MACSA FOR THE EL TORO YOUTH CENTER

Agency Member Cook noted that the Redevelopment Agency (RDA) is paying utilities for the El Toro Youth Center. She stated that she was surprised that the Agency was doing so and noted that this was included in the 1989 lease. She recommended that a payment figure be identified and that the figure not be left open ended. She inquired as to the funding source for this account.

Director of Business Assistance and Housing Services Toy said that the funding source is budgeted from the Building Maintenance fund (general fund).

Agency Member Cook stated that this is an agreement between the RDA and the Mexican American Community Services Agency, Inc. and that the agreement does not specify who is paying the account. She recommended that the payee be identified in the lease or other document. Mr. Toy said that staff would need to investigate why the city was paying utilities when the lease is with the Agency. He said that utilities being paid range from \$300 to \$400 per month.

Agency Member Cook recommended that the proper agency pay the fee or that funding come from the proper account. She further recommended that a cap be placed on the expenses. She stated that a \$400 per month cap is acceptable but that it would not answer the question of whether this issue should be in the lease with the Agency and not the City.

Mr. Toy informed the Agency that continuance of this item would not impact the project as a current lease exists.

Action: *On a motion by Agency Member Cook and seconded by Vice-chairman Sellers, the Agency Commission unanimously (5-0) **continued** this item to a future meeting.*

2. HOME IMPROVEMENT LOAN APPROVALS

Action: *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Commission unanimously (5-0):*

- 1. **Approved** the Following Home Improvement Loans under the Agency's Housing Rehabilitation Loan Program:*
 - A) an additional \$20,000 to James and Anna White Who Live at 17340 Del Monte Ave.;*
 - B) \$40,000 to Deborah Vajretti Who Lives at 334 Via Loma,*
 - D) \$40,000 to Robert and Susan Kerr Who Live at 205 Warren Ave., and*
 - E) \$40,000 to Jesse and Susan Ocegura Who Live at 18530 Del Monte Ave.;*
- 2. **Directed** the Interim Executive Director to Do Everything Necessary to Prepare and Execute the Loan Documents; and*
- 3. **Authorized** the Interim Executive Director to Approve Loans Up to \$40,000 and to Make Modifications to the Loan Programs Guidelines as Needed.*

Agency Member Chang and Vice-chairman Sellers stepped down from discussion of Agenda Item 2c.

Action: *On a motion by Agency Member Tate and seconded by Chairman Kennedy, the Agency Commission on a 3-0 vote (Agency Member Chang and Vice-chairman Sellers absent):*

- 1. **Approved** the Following Home Improvement Loan under the Agency's Housing Rehabilitation Loan Program:*
 - C) \$40,000 to Kenneth Kamai Who Lives at 17755 Monterey Road;*
- 2. **Directed** the Interim Executive Director to Do Everything Necessary to Prepare and Execute the Loan Document; and*
- 3. **Authorized** the Interim Executive Director to Approve Loan Up to \$40,000 and to Make Modifications to the Loan Programs Guidelines as Needed.*

Agency Member Chang and Vice-chairman Sellers resumed their seats on the dias.

OTHER BUSINESS:

3. CONCEPT PAPER FOR A BUSINESS INCUBATOR

Business Assistance and Housing Services Toy presented the staff report and stated that staff sees the Business Incubator as a two-part process: 1) the preliminary concept paper and 2) a detailed feasibility analysis. He informed the Agency Commission that the Chamber of Commerce recommends that the Agency continue its investigation into establishing a business incubator in Morgan Hill and further recommended that a business incubator accommodate a variety of business and not target one specific industry.

George Panos, Chairman of the Chamber of Commerce Economic Development Committee, concurred with the report as presented by staff and encouraged the Agency to allow the Chamber of Commerce to seek additional information about the business incubator, including groups and organizations that foster such development. He provided the Agency Commission with soft numbers in order to better understand the incubator concept and its benefits.

Agency Member Cook said that she had the opportunity to speak to individuals who work at Ten and a successful business incubator operator in Morgan Hill. She indicated that she focused her discussions on whether there should be a variety of business types or should the incubator be focused. After talking with these individuals, it became clear to her that a focused incubator would create a greater synergy. She asked how the synergy would be created and how would the incubator be made meaningful if a core similarity does not exist?

Sunday Minnick, Executive Director to the Chamber of Commerce, indicated that home based businesses were included in the incubator concept because space could be rented to home based businesses in need of additional space. The Chamber felt that if there was an agreement to proceed with a focused incubator and the Chamber did not fill the incubator with 10 businesses, the Chamber would try to target some home based business to fill space. She informed the Agency Commission that the average square footage of an incubator is 10,000 square feet.

Vice-chairman Sellers recommended that in addition to industry that the Agency and the Chamber encourage the exploration of partnerships with other countries or business industry associations to give the Agency and the Chamber flexibility and added strength in terms of the proposal and concept.

Agency Member Tate stated that he has heard a lot about incubators and the synergism of having a common incubator type. He felt that part of the next phase would be to contact incubator companies and return with a recommendation.

Mr. Panos stated that there are different ways to subsidize incubators such as corporate sponsorships and grants. Partnering with a country to create an incubator is interesting and is worth evaluating.

Agency Member Chang noted that it is being stated that there is a potential to raise \$276,000. If the incubator does not go well, the total exposure will be approximately \$1.2 million. She asked if the City would be responsible for the entire bill? Mr. Panos said that it was assumed that the Agency would foot the bill.

Agency Member Tate said that it was his opinion that the \$300,000 was a conservative estimate. He pointed out that one does not continue throwing away money if a program does not work. Therefore, he did not believe that the exposure would be high as funding would be cut off before you get to this point.

Chairman Kennedy inquired if the Chamber intends to do to seek grants? Ms. Minnick informed the Agency that the Chamber has a grant writer who has been working with the Chamber on this proposal. The grant writer would be researching the funding avenues on grants. She noted that the numbers presented to the Agency were soft numbers and felt that there may be an ability to attain more grant monies.

Chairman Kennedy noted that there is no financial commitment at this time except for the time that it takes for staff to pursue this avenue and any miscellaneous expenses that staff incurs.

Vice-chairman Sellers said that this is an exciting prospect and that he was excited to see that the Chamber is pursuing the business incubator.

Action: *Vice-chairman Sellers made a motion, seconded by Agency Member Tate to **Direct** staff to assist the Morgan Hill Chamber of Commerce in their development of a detailed feasibility study for a business incubator in Morgan Hill.*

Agency Member Chang stated that the General Plan reviewed numbers and that there was discussion on the number jobs that would be created based on square footage with the current inventory of land. She asked how many and what type of jobs would be created in Morgan Hill with the current industrial land inventory available?

Interim Executive Director Tewes said that a commitment was made to the General Plan Task Force to develop this data. He said that much of the focus has been on acres of industrial and commercial lands. The General Plan Task force has requested that these numbers be converted into a job production factor per acre or square footage of development. He stated that conversion of numbers would be performed for existing City development, the remaining build out within the current General Plan, and the additional increment attributed to the recommended General Plan.

Agency Member Cook stated that she would not want to see the Agency spending large sums of monies if there is not an adequate return.

Chairman Kennedy opened the floor to public comment.

Rick Page stated that he has worked approximately six months on the incubator project. He stated that he is one of the individuals responsible for the financial values presented to the Agency. He felt that this is a relatively low cost component of an overall economic development strategy. He stated that he and staff have worked with Ten to look at their incubator. He said that Ten is a very successful incubator company, noting that 90% of their companies have been successful. He stated that over the last six years, Ten have been able to garner corporate sponsorship totaling \$3.5 million.

Agency Member Cook said that she spoke with Mr. Boeddeker who indicated that Ten may not have responded to the incubator proposal because it was not know what the Chamber of Commerce wanted. She felt that the Chamber of Commerce has a lot of homework to conduct before the concept returns to the Agency.

No other comments were offered.

Vote: *The motion carried unanimously (5-0).*

4. ACQUISITION OF 17060 MONTEREY ROAD (APN 726-13-002)

Director of Business Assistance and Housing Services Toy presented the staff report. He informed

the Agency that it has been provided with a copy of the Temple Emanuel Church's acceptance of the Agency's offer.

Agency Member Tate asked how the eight-month lease back would coincide with the Agency's most aggressive schedule for the Community Center? Mr. Toy responded that staff has determined that it would take six months to develop the plans for the Community Center and another two months to let the bid. Therefore, the Church would have approximately eight months until they have to move out of the facility. In response to Chairman Kennedy's question, Mr. Toy stated that the Friendly Inn would be available if the construction schedule necessitates Church members vacating the building.

Chairman Kennedy opened the floor to public comment. No comments were offered.

Chairman Kennedy thanked Pastor Richards and the congregation for being helpful and cooperative in this endeavor.

Vice-chairman Sellers stated that this is a crucial site for the development of the community center and the downtown. He indicated that the Agency and staff understood that this was a significant undertaking for the church and disruption of their activities for a period of time. He was pleased that a mutual agreement could be reached that satisfied both sides. He thanked staff for its work and the congregation for their cooperation as the Community Center will be important to the city for several years.

Action: *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Commission unanimously (5-0) 1) **Authorized** the Interim City Manager/Executive Director to negotiate, prepare, and execute a purchase agreement and any other related documents with the Apostolic Assembly of the Faith in Christ Jesus, a California Corporation to acquire the property at 17060 Monterey Road (APN 726-13-002) for \$900,000, the conveyance of the City owned property on Butterfield/San Pedro (APN 817-11-062) and all closing and escrow costs; and 2) **Appropriated** \$910,000 from the Redevelopment Agency Fund Balance (Fund 317).*

5. REVIEW OF RDA PUBLIC IMPROVEMENTS, PROJECTS, AND PROGRAMS

Interim Executive Director Tewes presented the staff report and identified current and future funding accounts in order to accomplish future Redevelopment Agency public improvements, projects and programs. He recommended that the Agency Commission think about setting project priorities under all categories and that the city move as quickly as it can on land acquisition. He further recommended that the Agency give thought to having staff evaluate short term borrowing options which may allow the Agency to accelerate some of the projects even further. He stated that this presentation begins public discussion and the Council/Agency policy deliberation about priorities. In succeeding weeks, as the Agency/Council sees more details about the projects, information be preserved as part of the budget and the five year Capital Improvement Projects. He recommended Agency feedback on the information presented.

Chairman Kennedy asked if there was money for property acquisition for a soccer complex? Mr. Tewes responded that funding for property acquisition of a soccer field or an aquatic center have not been included within the commitments made by the Agency to this point but that there are funds available for the acquisition of a senior center.

Agency Member Tate noted that staff is recommending the evaluation of short term borrowing options such as notes or advances. He asked if this recommendation is in conformance with the guidelines of "pay as you go?"

Mr. Tewes responded that borrowing would be in conformance with Redevelopment Plan. He felt that there would be an opportunity to accelerate projects to the extent that the Agency can find a way to advance next year's monies to this year. In response to Agency Member Chang's question, he indicated that the \$6.4 million does not include the 20% set aside.

Agency Member Cook asked if the City would ever consider borrowing from a financial institution on 10-15 year mortgages for land acquisition? She asked if the City could investigate external ways of borrowing that are not bonded and are not long term?

Chairman Kennedy recommended that borrowing outside the city be kept open as an option. He did not know if the Agency would be able to borrow funds from the City in every case as it may not have funds to lend. He concurred with staff's suggestion to acquire the needed land as soon as possible for facilities. This may result in the Agency's up-front cost being higher. The Agency may want to obtain mortgages to acquire the properties with the revenues that come in on an annual basis to pay off the mortgages. This would allow the Agency to proceed with the acquisition of lands and to proceed with projects.

Agency Member Cook stated that the General Plan Task Force has looked at the City's potential revenues and financial status over the next 20 years. She said that the report is grim and gets grimmer the further out you go. She felt that the City Council would be remised if it did not address the issue. She felt that there may have to be an assessment for recreation in the city if facilities are to be constructed because it does the City no good to build facilities and make this capital investment if the City cannot maintain and use the facilities. She recommended that Butterfield Boulevard be completed from one end of town to the other as quickly as possible. Mayor Kennedy and Mayor Pro Tempore Tate concurred that the extension of Butterfield be completed as quickly as possible.

Chairman Kennedy supported exploring a mechanism that would allow on going revenue sources to provide revenues for those community facilities and activities that the community wants. He recommended that the Agency focus on this issue sooner rather than later.

Agency Member Chang noted that under community facilities, staff indicates that the majority of the funds are to be used for the Community Center. She asked if this was enough funding to complete the entire community center? Mr. Tewes said that the Community Facilities funding, includes the completion of Phase I of the Community and Cultural Center, not the subsequent phases, and the senior center.

Agency Member Tate said that he was reminded, in reading the staff report, that the Agency made some provisions for paying off the sewer debt and lowering sewer bills. He asked if this consideration was factored into the plan? Mr. Tewes said that this commitment was made under the sewer and water facilities and that staff has given some thought on how this might be accomplished. Staff would be returning with some ideas in succeeding weeks.

Agency Member Cook said that an expansion of the sewer plant will be needed within the lifetime of the RDA amendment. Instead of lowering the rates on a one time basis, she recommended that the Agency/Council revisit the issue on financing the construction of a new facility. This would result in a lesser effect over a longer period of time on sewer rates versus a one time rate reduction.

Chairman Kennedy concurred with Agency Member Cook's comments relating to sewer rates.

Vice-chairman Sellers felt that there are other opportunities to get operations and maintenance costs borne in partnership with others and recommended that consideration be given to this alternative.

Agency Member Tate stated that he is experiencing a sense of frustration that the Agency/City Council has not been able to place an immediacy on recreational facilities within the community. He recommended that the Agency work on the operations and maintenance issues in parallel with the Parks Master Plan so that the City can proceed with recreational facilities immediately following approval of the Parks Master Plan.

Agency Member Chang said that it is known that the Agency is trying to acquire the soccer site. She felt that a plan should be in place to determine what is to be done with the site.

Chairman Kennedy noted that the soccer field site is not included in the Parks Master Plan. He recommended that the Parks & Recreation Commission address the soccer site as part of the Parks Master Plan.

No other comments were offered.

Action: *The Agency Commission **Reviewed** the Agency financial forecast and provided staff with initial comments.*

PUBLIC COMMENT

Mayor Kennedy read a proclamation Declaring the fourth Friday in April as *Children's Memorial Day*.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Cook, the City Council unanimously (5-0) **approved** Consent Calendar Items 7-10 as follows:*

7. **SECOND AMENDMENT TO THE AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, MCCLURE AND FLEGEL, LLP IN THE AMOUNT OF \$115,000 FOR LEGAL SERVICES FOR THE PERIOD MARCH - AUGUST 2000**
Action: Authorized the Interim City Manager to Execute a Second Amendment to the Agreement with the Firm of Jorgenson, Siegel, McClure and Flegel.
8. **AMENDMENT TO COUNCIL POLICY REGARDING RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS**
Action: Adopted amended policy.
9. **PROPOSED AMENDMENT TO THE CITY'S CONFLICT OF INTEREST CODE BY AMENDING APPENDIX "A" - DESIGNATED POSITIONS TO SHOW CURRENT CITY POSITIONS AND DISCLOSURE CATEGORIES - Resolution No. 5377**
Action: Adopted Resolution No. 5377, amending the City of Morgan Hill's Conflict of Interest Code.
10. **SPECIAL MEETING MINUTES FOR APRIL 18, 2000**
Action: Approved the minutes as submitted.

PUBLIC HEARINGS:

11. **ZONING AMENDMENT 99-10 COCHRANE - THARALDSON DEVELOPMENT COMPANY**

Senior Planner Banks presented the staff report. He indicated that several issues were discussed at the Planning Commission meeting such as the height of the hotel, access around the Residence Inn located at the eastern corner of the project site, landscaping along the periphery of the site and the location of the future restaurant buildings. He indicated that the Planning Commission felt that the height of the hotels, as proposed, was acceptable and recommends that the height of the hotels be as shown on the project plan. The Commission expressed support of a variance along the eastern portion of the site as it is adjacent to the freeway provided that the applicant works with Caltrans to provide an additional 15 feet of landscaping in their right of way. The Commission was not supportive of a variance to reduce the landscaping in the future Madrone Parkway. Staff recommended that the City Council approve the mitigated Negative Declaration for the project and introduce an ordinance approving the proposed zone change and precise plan. He recommended the following modifications to the proposed ordinance: Section 4, to read "The City Council hereby approves the precise development plan contained in that certain series of documents dated March 8, 2000 on file with the Community Development Department, **as amended by the conditions of approval . . .**," Conditions E4 and R4 be deleted as these conditions are required per city code, and Section Y conditions to be incorporated as they were not copied as part of the agenda packet. He informed the City Council that Michelle Yesney, David Powers and Association, lead consultant for the expanded initial study for the project, was present to answer questions which the Council may have.

Council Member Cook referred to Section 4 of the ordinance, last sentence that addresses the changes to the PUD. It is indicated that approval of a precise development shall require an

amendment through the public hearing process. She noted that the Planning Commission recommends that this be accomplished with a variance. She asked if a variance was different or the same as an amendment through the public hearing process? Mr. Banks informed the Council that a condition has been included that requires the applicant to work with Caltrans to provide 15 feet of landscaping along the eastern portion of the site. This would not require an amendment of the PUD to accomplish this. As the condition is currently written, it requires that the applicant work with Caltran and provide a good faith effort to obtain use of the area to provide landscaping. If the Council wants to include or amend the condition to place a requirement for landscaping, staff can recommend wording modifications. He presented the City Council a site plan that depicts the Planning Commission recommendations.

Council Member Chang inquired about the building height. She noted that the staff report indicates that the underlying zoning for the project site is Highway Commercial which allows a maximum height of 35 feet. The report also indicates that the Extended Stay America has a height limit of 43 feet. She asked why was the Extended Stay America allowed to be at a height of 43 feet?

Mr. Banks clarified that Extended Stay America is located in the Morgan Hill Business Ranch with a PUD standard of up to 50 feet building height. He indicated that portions of the hotels are proposed at a height of 48 feet. Staff recommended a maximum height of 43, consistent with the maximum height of Extended Stay America.

Director of Community Development Bischoff said that the 35-foot height limit in the highway commercial zoning district was established approximately 20-30 years ago as it was felt that Morgan Hill was a semi rural community and that this height was in keeping with this. At the time of establishment of the Morgan Hill Business Ranch PUD, it was assumed that a significant amount of high tech development would occur. The 50-foot height limitation imposed for this project recognized the scale, magnitude and intensity of development that was anticipated.

Mayor Kennedy opened the public hearing.

Roger Swann, Vice-president of Development for Tharaldson Development Company, stated that the zoning to the north of the hotel also allows a 50-foot maximum height. He stated that the architectural relief to be provided for the hotels offsets the proposed height and would not be imposing. He noted that the two proposed hotel franchises run in excess of 80% occupancy.

Elaine Hansen, EMC Planning Group, addressed the benefits of the projects as follows: an aesthetic gateway project is being proposed; high occupancy hotels proposed, project compliments Madrone Business Park; hotels would contribute to the Transient Occupancy Tax revenues; the food mart, carwash and gas station are in a location that is consistent with the General Plan and are very architecturally distinctive; and that a number of interests have been received for the sit down restaurant pads, noting that the project developer is being selective with who will be allowed to establish a restaurant. It is felt that ample landscaping and trees proposed along all sides of the hotel has been demonstrated. The provision of landscaping within the Caltran's right of way alternative would appear out of place. She recommended that most attention be given to the corner piece that would be landscaped in negotiations with Caltrans as a gateway feature. She indicated that the applicant is interested in working and negotiating with Caltrans but expressed concern that this may

forestall development for a great period of time.

With regards to the building height consideration, Ms. Hansen indicated that the Highway Commercial allows for a three-story building or 35 feet. She noted that north of the hotel is land that is designated as industrial with a maximum height of 50 feet. She noted that the Extended Stay America's height of 43 feet is only two to five feet less than the highest portion of the proposed hotels. She felt that at highway speeds of 65 mph, this would be a negligible amount of height to be seen. She indicated that the Residence Inn is primarily at 42 feet in height and that only a small portion of the hotel building is proposed at 45 feet. The Courtyard Inn is primarily at 44 feet or less with the center portion at 48 feet. It is believed that the architectural and roof styles are distinctive, necessitating the 48 feet. She felt that amply landscaping is proposed to soften the structures. She said that there is very little pedestrian traffic along Cochrane Road. If the hotels are moved closer to Cochrane Road, it is felt that it could present a hazard for children and would create a larger distance for pedestrians to walk. She requested amendment to Condition Y2 to include language that would provide further clarification on negotiations with Caltrans. She felt that it was important to clarify that the applicant demonstrate a good faith effort toward negotiations with Caltrans such that negotiations or that any lack of agreement with Caltrans, by the time building permit applications are submitted, will not delay or prohibit the building permits from being obtained.

John Broderson, owner of the Chevron gas station located at Monterey and Vineyard, requested approval of a variance for his driveway. He indicated that it is proposed to move the berm 20-25 feet, relocating the driveway entrance. He stated that a minimal portion of the site is needed to be approved by a variance to accommodate the carwash. He said that 90 feet is the distance necessary for a carwash. He needs approval of a variance to accommodate a turning lane and turning radius for the carwash. He provided the Council with elevations of the back side of the convenience market.

Mr. Banks stated that it was staff's goal to move some buildings forward to see buildings opposed to parking lots. Staff's preference was to see one of the restaurants placed at the corner of Cochrane and Madrone Parkway to make a better entry statement into the business park. Staff worked with Mr. Broderson and indicated that Mr. Broderson agreed to move the gas station building to the corner and place the carwash further from Cochrane Road to address aesthetic concerns. Regarding landscaping adjacent to the freeway, he indicated that staff has consistently been requiring a 30-foot landscape buffer for projects adjacent to the freeway. He clarified that the police department is requesting access around the side of the hotel building to facilitate patrol. The Planning Commission recommended a connection to the north.

Chief of Police Schwab informed the City Council that access to the east side of the site would allow police officers to patrol the area in a continued circular movement. Doing so would allow vehicle access that would allow casual surveillance from others and reduce the opportunity for criminal activity. The Planning Commission suggested that a driveway be provided to the northerly adjacent parcel to allow police officers access to the northeast portion of the lot. This would allow some drive thru capabilities. He said that the alternative suggestion is not an ideal situation but that it would be acceptable. He informed the City Council that staff has suggested that the hotel provide private security in the evening to help mitigate the issue and to install security lighting that meets city standard.

Mayor Pro Tempore Tate noted that the applicant states that one of the benefits that would be provided with the construction of two hotels is the claim to provide a substantial contribution to the Transient Occupancy Tax. He said that taking patrons from one hotel to another does not increase the Transient Occupancy Tax. He asked if Marriot Hotels work with existing hotels to bring more individuals into the community?

Mr. Swann said that Marriott's guests are very loyal and felt that they would drive to Morgan Hill because of the hotel's reward structure. He indicated that the hotel would be staffed at all times and that it would be possible to install security monitors for outdoor surveillance. He stated that he would agree to provide lighting, maintain bushes to a height of no greater than two feet, and to eliminate a few parking spaces to provide a sports court to mitigate the police department's concerns.

Glenn Ritter, civil engineer, informed the City Council that he spoke with Chief of Police Schwab regarding the emergency access. He has agreed to provide access to the north per Planning Commission recommendation. He indicated that autos would be visible from the patrol area. He has provided the full hammer head turnaround for the fire department. He said that it is not typical to have access on all sides of a building and that it would be cost prohibitive to reduce the size of the building.

Mayor Kennedy asked if there will be local management for the project? He indicated that there is a tourism committee that was recently established. He noted that a PGA event will take place at the Coyote Creek golf course in approximately 10 months. He said that whoever operates the facility may be interested in participating in this committee. Mr. Swann said that Marriot tries to hire someone within the community.

Council Member Sellers asked if highway uses and highway traffic are being considered or is demographics being considered in terms of the restaurant to be selected? Mr. Swann responded that he is looking and working closely with Mr. Krouskup to bring a restaurant that is considered trendy and upscale.

Brad Krouskup offered TBI Mission West and TBI Madrone's support of the project. He is anxious to see the hotels be an intricate part of the business park and the Cochrane Road extended neighborhood as it would be a tremendous amenity to the business community that is developing on Cochrane Road. He indicated that Mr. Swann has been very cooperative in agreeing that fast foods are not the greatest use to support a business community. Both agree that a sit down restaurant that serves the business community should be sought. He felt that a 48-foot building would provide some architectural significance at limited locations of the roof line. Regarding the landscape setback, he stated that he was not optimistic that it would be a great solution to carve out 15 feet for landscaping and that going into the Caltrans easement would be encroaching into a steep slope. He recommended that emphases should be placed on the corner as a gateway entrance. He would agree to participate in discussions with Caltran to achieve this end as long as it does not take six to eight months to negotiate.

There being no further comments, the public hearing was closed.

Council Member Cook did not believe that the City should make the developer consult with Caltrans as she felt that 15 feet is adequate. If there is a concern about looking into the site, a berm can be installed to provide screening.

Council Member Chang stated that the Council adopted a policy last year to stipulate that everything constructed adjacent to the freeway was to provide a 30-foot landscape setback. She asked if an exception to this policy is to be made every time a project is submitted?

Mr. Banks informed the City Council that in order to accommodate the 30-foot landscape strip would result in the elimination of one of the restaurants in order to reorganize the site to provide 30 feet around the periphery. He said that it is difficult to meet all the landscape requirements with everything that is being proposed on the site. Elimination of one restaurant and associated parking would open up the site and allow some modifications short of reducing the size of the hotels.

Council Member Sellers did not believe that exceptions were being made in every case. Exceptions are being made by the Council when there is an exceptional situation and a project is not duplicated anywhere in Morgan Hill. He felt that this site is unique and that the project merits some consideration.

Council Member Chang stated that a 48-foot building would be as tall as the Mervyn's sign and that individuals would be driving past an enormous building. She noted that this site is a gateway into Morgan Hill and that this would be the first building that would be seen.

Mr. Swann recommended that fast growing trees be planted instead of flowers and shrubs in the Caltrans right of way.

Council Member Cook expressed concern that if the recommended 15 feet are on a slope, it defeats the requirement of providing 30-feet of landscaping in a flat area. She felt that it would be preferable to have the applicant provide a special landscaping treatment by means of the installation of a couple of large sized trees to help mitigate the site problem.

Council Member Chang recommended that the applicant make an effort to obtain 15 feet from Caltrans in order to provide some landscaping.

Interim City Attorney Leichter indicated that the code requires that buffer areas be no less than 30 feet wide and that landscaping buffers be installed around the periphery of the parcel when adjacent to or visually related to any commercial, professional or residential use. She understands that the applicant does not believe that the site is adjacent to or visually related to commercial, professional or residential uses. She said that in looking at the surface of the issue, she felt that the applicant would need to apply for a variance and that the Council could not grant the modifications as a condition of approval.

Mr. Banks clarified that staff would not be able to approve a site plan through the site and architectural review process if the plans show less than a 30-foot landscape area unless a variance is approved by the Planning Commission.

Council Member Cook recommended that Section 4 be amended to include “and/or a variance.”

Mayor Pro Tempore Tate expressed concern with circulation and staff’s recommendation of providing security around the entire building. However, he did not have an alternative solution to propose.

Council Member Sellers noted that the police chief pointed out that one of the things that he would like to see is circulation around the building so that people driving around the area are safe. He noted that a recreation center is being proposed and that it would provide circulation of individuals and would contribute to keeping the area safe.

Action: *It was the consensus of the City Council that the berm along Cochrane Road is found to be acceptable and mitigate concerns.*

Action: *On a motion by Council Member Cook and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **approved** the Mitigated Negative Declaration.*

Council Member Chang said that she has seen the Council violate its policy more than once recently relating to the 30-foot setback requirement. She felt that if an ordinance is adopted, the Council should follow it.

Action: *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council unanimously (5-0) **waived** the reading in full of the Ordinance No. 1475, N.S. Approving the Zoning Amendment.*

Action: *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1475, New Series by title only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO CHANGE THE ZONING FROM HIGHWAY COMMERCIAL TO PLANNED UNIT DEVELOPMENT AND TO ESTABLISH A PRECISE DEVELOPMENT PLAN FOR THE SITE. APN 726-31-001 (APPLICATION ZA-99-10: COCHRANE-THARLDSON), by the following roll call vote: AYES: Chang, Cook, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None, incorporating the following: amendment to Section 4, last sentence to read: "...shall require an amendment and/or a variance; deletion of conditions E4 and R4; and the inclusion of conditions that stipulate: a) installation of fast-growing trees to be approved by staff; b) applicant to make a good faith effort work in working with Caltrans; c) encroachment along the eastern portion along the Residence Inn building, and d) encroachment into the 30-foot landscape area associated with the gas station, subject to variance approval by the Planning Commission.*

Mayor Pro Tempore Tate expressed concern with the issue of bringing more Transient Occupancy Tax versus shifting taxes around. He encouraged the applicant to become involved with the Chamber of Commerce's Tourism Committee as this would become a win-win situation for everyone in town.

Council Member Chang felt that as time moves on, the City will be pressured for growth and felt that the standards that the city keeps for its citizens are very important.

OTHER BUSINESS:

12. DEVELOPMENT AGREEMENT ENABLING ORDINANCE

Interim City Attorney Leichter presented the staff report.

In response to Council Member Cook's question, Ms. Leichter stated that the enabling ordinance would not effect impact fees?

Council Member Cook said that she was not opposed to planning as far as land use and density go but that she was not willing to freeze impact fees for projects. She felt that projects should be paying the going rate at the time that building permits are pulled.

Mayor Kennedy said that this discussion implies that what is in place is inadequate. Ms. Leichter said that the City does not currently have a development agreement ordinance in place.

Council Member Cook also expressed concern with projects that could apply for a development agreement. She asked how the ordinance fits in with residential development and Measure P? She did not want to give vesting rights under this process that does not comply with Measure P. She requested that this concern be explored.

Interim City Attorney Leichter said that this concern was raised and that staff would be recommending that residential developments be included in the enabling ordinance at time of Planning Commission review.

Council Member Cook felt that residential developments should be excluded from the enabling ordinance.

Director of Community Development Bischoff stated that if the city is going to adopt an enabling ordinance for all development agreements, irrespective of whether they are residential, commercial or industrial development, they would need to be consistent with the ordinance. He felt that the enabling ordinance still needs some tweaking but that it needs to be a basis for all city development agreements. He felt that it was a good idea to have an enabling ordinance in place if the city can establish minimum standards. With regard to residential development agreements, the city has been using the standard form for years and noted that it has worked well. However, with commercial and industrial projects which are not routine or where there are no requirements that are established through the Measure P process, it would be beneficial for the city to specify what the city's expectations are.

Council Member Cook felt that special language is needed for phased development. She said that this is supposed to be providing extra worth to the community. She did not know if there was a way to assess the worth to the community.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the Agency unanimously (5-0) **Referred** the Draft Ordinance to Planning Commission for Review and Comment.*

Redevelopment Agency/City Council Action

CLOSED SESSION:

Interim City Attorney Leichter announced the following closed sessions:

1.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Mission View and Cochrane Road; and APN 728-31-009 - 12.88 acres located on the southeast corner of Cochrane and Highway 101 (St. Louise Hospital property)
City Negotiators:	Agency Members; Interim Executive Director; Interim Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic:	Potential Litigation

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to subdivision (b)(3)(E) of Government Code Section 54956.9: (1 case)

Attendees:	Agency Board; Interim Executive Director; Interim Agency Counsel; Director of Business Assistance and Housing Services; Chief of Police, and William Strausz, special counsel
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3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority:	Government Code 54956.9(a)
Title of Case:	Larry Farrow v. Paradise Motel et al.
Case No.	C99-20527 JW-EAI
Attendees:	Council Members; Interim City Manager; Interim City Attorney, Police Chief

Chairman/Mayor Kennedy opened the closed session items to public comment.

ADJOURN TO CLOSED SESSION

Chairman/Mayor Kennedy adjourned the meeting to closed session at 10:37 p.m.

CLOSED SESSION ANNOUNCEMENT

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 12:07 p.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Leichter announced that no reportable action was taken on the above listed items.

ADJOURNMENT: There being no further business, Chairman/Mayor Kennedy adjourned the regular and special Redevelopment Agency and special City Council meeting at 12:08 p.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, Agency Secretary/City Clerk